

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

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INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

COUNSEL

ROSWELL L. GILPATRIC
ALBERT R. CONNELLY
FRANK H. DETWEILER
GEORGE G. TYLER

CARLYLE E. MAW
L. R. BRESLIN, JR.
GEORGE B. TURNER
JOHN H. MORSE
HAROLD R. MEDINA, JR.
CHARLES R. LINTON

4, PLACE DE LA CONCORDE
75008 PARIS, FRANCE
TELEPHONE: 265-81-54
TELEX: 290530

33 THROGMORTON STREET
LONDON, EC2N 2BR, ENGLAND
TELEPHONE 01-606-1421
TELEX: 8814901

CABLE ADDRESSES
CRAVATH, N.Y.
CRAVATH, PARIS
CRAVATH, LONDON E.C. 2

MAURICE T. MOORE
BRUCE BROMLEY
WILLIAM B. MARSHALL
RALPH L. MCAFEE
ROYALL VICTOR
ALLEN H. MERRILL
HENRY W. DE KOSMIAN
ALLEN F. MAULSBY
STEWART R. BROSS, JR.
HENRY P. RIORDAN
JOHN R. HUPPER
SAMUEL C. BUTLER
WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT
GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK
GEORGE T. LOWY
ROBERT ROSENMAN

JAMES H. DUFFY
ALAN J. HRUSKA
JOHN E. YOUNG
JAMES M. EDWARDS
DAVID G. GRMSBY
DAVID L. SCHWARTZ
RICHARD J. HIEGEL
FREDERICK A. O. SCHWARZ, JR.
CHRISTINE BESHAR
ROBERT S. RIFKIND
DAVID O. BROWNWOOD
PAUL M. DODYK
RICHARD M. ALLEN
THOMAS R. BROME
ROBERT D. JOFFE
ROBERT F. MULLEN
ALLEN FINKELSON
RONALD S. ROLFE
JOSEPH R. SAHID
PAUL C. SAUNDERS
MARTIN L. BENZEL
DOUGLAS D. BROADWATER
ALAN C. STEPHENSON

February 23, 1979

Maryland and Pennsylvania Railroad Company Conditional Sale Financing dated as of January 1, 1979

Dear Sir:

Herewith for recordation pursuant to 49 U.S.C. § 11303, on behalf of Chemical Bank, are executed copies of the following:

(1) Conditional Sale Agreement dated as of January 1, 1979, between Whittaker Corporation (Berwick Forge & Fabricating Division), P.O. Box 188, West Ninth Street, Berwick, Pennsylvania 18603, and Maryland and Pennsylvania Railroad Company, 490 East Market Street, York, Pennsylvania 17403; and

(2) Agreement and Assignment dated as of January 1, 1979, between Whittaker Corporation (Berwick Forge & Fabricating Division) and Chemical Bank, 55 Water Street (Suite 1822), New York, N. Y. 10041.

The Equipment covered by the aforementioned Agreements consists of 188 70-ton, 50' 6" Box Cars with rigid underframe and 10' sliding doors bearing the road numbers MPA 9400 through 9587.

Enclosed is a check for \$50 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed Agreements, stamp the remaining counterparts and the enclosed copy of this letter with your recordation number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Paul W. Voegeli", written over the typed name.

Paul W. Voegeli

The Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

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BY HAND

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INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of January 1, 1979,

between

WHITTAKER CORPORATION (BERWICK
FORGE & FABRICATING DIVISION),

the Builder,

and

MARYLAND AND PENNSYLVANIA RAILROAD COMPANY,

the Railroad.

CONDITIONAL SALE AGREEMENT

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CONDITIONAL SALE AGREEMENT dated as of January 1, 1979, between WHITTAKER CORPORATION (BERWICK FORGE & FABRICATING DIVISION) (hereinafter called the Builder or the Vendor as the context may require, all as more particularly set forth in Article 1 hereof), and MARYLAND AND PENNSYLVANIA RAILROAD COMPANY, a Maryland and Pennsylvania corporation (hereinafter called the Railroad).

WHEREAS, the Builder has agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the equipment described in Schedule B hereto (hereinafter called the Equipment);

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth intending to be legally bound, the parties hereto do hereby agree as follows:

ARTICLE 1. Certain Definitions. The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, the corporation named in Item 1 of Schedule A hereto and any successor or successors for the time being to its manufacturing properties and businesses, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. The term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the corporation named in Item 1 of Schedule A hereto and any successor or successors for the time being to its respective manufacturing properties and businesses.

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder has constructed or will construct the units of the Equipment and will sell and deliver to the Railroad, and the Railroad will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), the Equipment, each unit of which shall be constructed in accordance with the specifications set forth therefor in Schedule B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder and the Railroad (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment

shall conform on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to equipment of the character of such units of the Equipment, and each unit of the Equipment (except to the extent, if any, referred to in Schedule A hereto, in Article 8 hereof, or both) will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of Equipment to the Railroad at the place or places specified in Schedule B hereto (or if Schedule B does not specify a place or places, at the place or places designated from time to time by the Railroad), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Schedule B hereto; provided, however, that the Builder shall not have any obligation to deliver any unit of Equipment hereunder at any time after the commencement of any proceedings specified in clause (f) or (g) of Article 16 hereof or if any event of default (as described in Article 16 hereof), or event which with the lapse of time and/or demand could constitute such an event of default, shall have occurred.

The obligation of the Builder as to time of delivery is subject, however, to delays resulting from causes beyond the reasonable control of the Builder, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 3, any Equipment not delivered, accepted and settled for pursuant to Article 4 hereof on or before April 30, 1979, shall be excluded herefrom. If any unit or units of Equipment shall be excluded from this Agreement pursuant to the immediately preceding sentence, the Builder and the Railroad shall execute an agreement supplemental hereto limiting this Agreement to the units of Equipment not so excluded herefrom. If the failure of the Builder to deliver Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, the Railroad shall nevertheless be obligated to accept such Equipment

and pay the full purchase price therefor, determined as provided in this Agreement, if and when such units of the Equipment shall be completed and delivered by the Builder, such payment to be in cash on the delivery of such units of Equipment, either directly or, in case the Railroad shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Railroad shall determine and as shall be reasonably acceptable to the Builder.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Railroad, and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect all materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Railroad for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Railroad shall execute and deliver to the Builder a certificate of acceptance in the form attached hereto as Schedule C (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Railroad and are marked in accordance with Article 7 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 14 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Railroad will assume the responsibility and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit.

ARTICLE 4. Purchase Price and Payment. The price per unit of the Equipment is set forth in Schedule B hereto. The term "Purchase Price" of each unit of Equipment as used herein shall mean such price. If the aggregate Purchase Price of Equipment shall exceed \$6,222,800, the Railroad and the Builder will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by

the Railroad, as will, after giving effect to such exclusion, reduce the aggregate Purchase Price of the Equipment under this Agreement to not more than \$6,222,800. The Railroad agrees to purchase any such unit or units so excluded from this Agreement and to pay the Builder in cash on the date such unit or units would otherwise have been settled for under this Agreement either directly, or, in the case the Railroad shall arrange therefor, by means of a conditional sale, equipment trust or other appropriate method of financing, as the Railroad shall determine and as shall be reasonably acceptable to the Builder.

For the purpose of making settlement, the Equipment shall be divided into such number of groups of units of the Equipment not exceeding two, delivered to and accepted by the Railroad (each such group being hereinafter called a Group), as to which the Builder and the Railroad may agree.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby agrees to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on each Closing Date (as hereinafter defined)
(i) an amount equal to 20% of the aggregate Purchase Price of the Equipment then being settled for, plus (ii) the amount, if any, by which (x) the Purchase Price of all units of the Equipment for which settlement has theretofore or is then being made, as stated in the invoice or invoices presented in respect of such Closing Date (said invoiced prices being hereinafter called the Invoiced Purchase Prices), exceeds (y) the sum of \$5,000,000 and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this subparagraph (a); and

(b) in 48 consecutive quarterannual installments in accordance with the repayment schedule attached hereto as Schedule D, as hereinafter provided, an amount equal to the aggregate of the Invoiced Purchase Prices for all the Equipment less the amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (the aggregate of said installments being hereinafter called the Conditional Sale Indebtedness).

The installments of the Conditional Sale Indebtedness payable pursuant to subparagraph (b) of the third

paragraph of this Article 4 shall be payable quarterannually on the date which is three months after the final Closing Date and on the same day of every third calendar month thereafter until the Conditional Sale Indebtedness shall be paid in full. The unpaid portion of the Conditional Sale Indebtedness shall bear interest from the respective Closing Dates on which such indebtedness was incurred at the rate of 10-1/4% per annum. Such interest shall be payable, to the extent accrued, on the final Closing Date and on each of the quarterannual dates for payment of Conditional Sale Indebtedness thereafter.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date (prior to May 1, 1979), not more than three days following presentation by the Builder to the Railroad of the invoice and the Certificate or Certificates of Acceptance for such Group (or such other later date as to which the Builder and the Railroad may agree), as shall be fixed by the Railroad by written notice delivered to the Vendor at least five business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in York, Pennsylvania, or New York, New York, are authorized or obligated to remain closed.

All interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months.

The Railroad will pay, to the extent legally enforceable, interest at the rate of 11-1/4% per annum upon all amounts remaining unpaid more than five days after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

The Conditional Sale Indebtedness may be prepaid as a whole or in part, on any due date for the payment of installments of Conditional Sale Indebtedness, at the option of the Railroad, upon at least 45 days' prior written notice to the Vendor, at the following prices (expressed in percentages of principal amount):

If Prepaid During the 12-month period commencing on the calendar date in each of the following years which is the same calendar date as the date of the final

Closing Date	Optional Prepayment Price
1979	105%
1980	105
1981	105
1982	105
1983	102-1/2
1984	102-1/2
1985	102-1/2
1986	102-1/2
1987	101-1/2
1988	101-1/2
1989 and thereafter	100

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in the immediately preceding paragraph hereof and in Article 8 hereof, the Railroad shall not have the privilege of pre-paying any installment of the Conditional Sale Indebtedness hereunder prior to the date it becomes due.

In the event the Vendor, pursuant to Article 15 hereof, assigns the right to receive the payments herein provided to be made by the Railroad, the assignee thereof may request the Railroad to make and the Railroad shall make such payments to it at such address as shall be supplied to the Railroad by the Assignee.

ARTICLE 5. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, Federal or foreign taxes (other than net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales or use taxes], excess profits and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees,

assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Railroad assumes and agrees to pay on demand. The Railroad will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor solely by reason of its interest therein and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the security interest of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Railroad shall not be under any obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the interest or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any such impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Railroad shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Railroad shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Railroad shall have approved the payment therefor.

ARTICLE 6. Security Interest in the Equipment.

The Vendor shall and hereby does retain title to and a security interest in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 8 hereof, when and only when the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, shall have been paid, and all the obligations of the Railroad herein contained shall have been performed by the Railroad,

absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring and releasing its interest therein to the Railroad, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address referred to in Article 21 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the release of the security interest of the Vendor in the Equipment and (c) pay to the Railroad any money paid to the Vendor pursuant to Article 8 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 7. Marking of the Equipment. The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule B hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement recorded with the Interstate Commerce Commission" or the name of the Vendor followed by the word "Owner", or other appropriate markings approved by the Vendor with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the interest of the Vendor in the Equipment and its rights under this Agreement. The Railroad will not place any such unit in operation or exercise any control or dominion over the same until such markings have been made thereon and will replace promptly any such markings which may be removed, defaced or destroyed. The Railroad will not change the number of any unit of the Equipment except in

accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed, recorded and deposited by the Railroad in all public offices where this Agreement shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Railroad will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates.

ARTICLE 8. Casualty Occurrences. In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, irreparably damaged or otherwise rendered permanently unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences), the Railroad shall promptly and fully inform the Vendor in regard thereto (after it has knowledge of such Casualty Occurrence). When the aggregate Casualty Value (as defined herein) of all units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 8) hereunder shall exceed \$50,000 the Railroad shall, on the next date for payment of principal or interest hereunder occurring 30 days after it has knowledge of such event, pay to the Vendor a sum equal to the aggregate Casualty Value of such units of the Equipment as of the date of such payment together with the full amount of the installment of Conditional Sale Indebtedness that would have been payable on such date had such Casualty Occurrence not occurred and shall file with the Vendor a certificate of an officer of the Railroad setting forth the Casualty Value of each unit of the Equipment suffering a Casualty Occurrence.

So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to the immediately preceding paragraph shall be used, as the Railroad shall direct in a written instrument filed with the Vendor within 30 days but not less than 10 days prior to the due date of the next installment of Conditional Sale Indebtedness, in whole or in part, to prepay installments of Conditional Sale Indebtedness or toward the cost of a unit

or units of standard gauge boxcars first put into service no earlier than the date of this Agreement, to replace units suffering a Casualty Occurrence. Any unit of replacement equipment shall be subjected to this Agreement not later than such next due date, shall have a remaining useful life (as evidenced by a certificate of an operating officer of the Railroad) at least as long as that which the Equipment being replaced would have had, but for the Casualty Occurrence and shall have a fair value on the date that such unit replaces the unit which suffered the Casualty Occurrence of at least 125% of the Casualty Value of the replaced unit (as evidenced by a certificate of an operating officer of the Railroad). If such replacement equipment shall be equipment theretofore used in railroad service, the Railroad shall deliver to the Vendor a certificate of an officer of the Railroad that the cost of such equipment does not exceed the fair value thereof. In case any money is applied to prepay Conditional Sale Indebtedness, it shall be so applied to reduce each installment of Conditional Sale Indebtedness thereafter falling due on a pro rata basis.

The Casualty Value of each unit of the Equipment (other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the original Purchase Price thereof (less, in the event that the Railroad shall have made any payment or payments under the provisions of subparagraph (a) of the third paragraph of Article 4 hereof, an amount which bears the same ratio to the aggregate of all such payments as the original Purchase Price of such unit bears to the original aggregate Purchase Price of all the Equipment) as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the original Conditional Sale Indebtedness. The Casualty Value of each replacement unit shall be deemed to be that amount which bears the same ratio to the portion of the cost thereof paid by the Vendor as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the original aggregate Conditional Sale Indebtedness (without giving effect to any such prepayments) as of the date of acquisition by the Vendor of such replacement unit.

The Railroad will cause any replacement unit or units to be marked as provided in Article 7 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement; provided, however, that nothing herein shall result in the Builder having any liability or obligation with respect to any replacement unit or units not manufactured by it. Title to all such replacement units shall be free and clear of all liens and encumbrances except the liens permitted by the second paragraph of Article 12 hereof and shall be taken and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall execute, acknowledge, deliver, file, record or deposit all such documents and do any and all such acts as may be necessary to cause such replacement units to come under and be subject to this Agreement. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment.

Whenever the Railroad shall file with the Vendor a written direction to apply amounts toward the cost of any replacement unit or units, the Railroad shall file therewith:

(1) a certificate of a Vice President or the Controller or other Chief Accounting Officer of the Railroad certifying that such replacement unit is a standard gauge boxcar first put into service no earlier than the date of this Agreement, and has been marked as required by the provisions of this Article 8 and certifying, in the event such replacement unit is new equipment, the cost of such replacement unit and, in the event such replacement unit shall be equipment theretofore used in railroad service, the fair value thereof and the original cost thereof and rate of depreciation taken thereon; and

(2) an opinion of counsel for the Railroad that the Vendor has a valid and perfected security interest in such replacement unit, free and clear from all claims, liens, security interests and other encumbrances except the rights of the Railroad under this Agreement, and that such unit has come under and become subject to this Agreement.

If one or more events of default shall have occurred and be continuing, all money held by the Vendor pursuant to this Article 8 shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 17 hereof.

In order to facilitate the sale or other disposition of any Equipment suffering a Casualty Occurrence, the Vendor shall, upon request of the Railroad, after payment by the Railroad of a sum equal to the Casualty Value of such Equipment, execute and deliver to the Railroad or the vendee, assignee or nominee of the Railroad, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Agreement, in such form as may be reasonably requested by the Railroad.

ARTICLE 9. Maintenance; Compliance with Laws and Rules; Insurance. The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair at its own expense.

During the term of this Agreement, the Railroad will at all times comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of any part on any unit of the Equipment, the Railroad will conform therewith, at its own expense; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

The Railroad will at all times prior to the payment of the full Conditional Sale Indebtedness, together with interest thereon and all other payments required hereby, at its own expense, cause to be carried and maintained insurance in respect of the Equipment at the time subject hereto in amounts and against risks customarily insured

against by railroad companies on similar equipment (which may be self-insurance if the Railroad self-insures with respect to similar equipment owned by it and, if the Railroad shall so self-insure, it shall annually so advise the Vendor not later than September 30 of each year), and in any event in amounts and against risks comparable to those insured against by the Railroad on similar equipment owned by it and, if such insurance is other than self-insurance, shall cause the Vendor to be named as an additional insured on the policies therefor.

ARTICLE 10. Reports and Inspections. On or before September 30 in each year, commencing with the calendar year 1979, the Railroad shall furnish to the Vendor an accurate statement signed by an officer of the Railroad (a) setting forth as at the preceding June 30 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding fiscal year (or since the date of this Agreement in the case of the first such statement) or, with respect to units of Equipment on the Railroad's own line, all units of the Equipment that have been withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 7 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the records of the Railroad with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 11. Possession and Use. Except as otherwise permitted by Article 15 hereof, the Railroad, so long as an event of default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Railroad, or over which it has trackage rights, or upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements or assigned service agreements, from and after delivery of the Equipment by the Builder to the Railroad, but only upon and subject to all the terms and conditions of this Agreement.

ARTICLE 12. Prohibition Against Liens. The Railroad will pay or discharge any and all sums claimed by any party from, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or in the Equipment, or any unit thereof, equal or superior to the Vendor's interest therein; provided, however, that the Railroad shall be under no obligation to pay or discharge any such claim so long as it is contesting in good faith and by appropriate legal proceedings such claim and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement; provided, however, that the Railroad shall not be obligated to reimburse the Vendor for any amounts so paid by the Vendor unless the Railroad shall have approved the payment thereof or the Vendor shall have received an opinion of counsel that such claim would constitute a lien, charge or security interest on or in the Equipment equal or superior to the Vendor's interest therein adversely affecting the property or rights of the Vendor in or to the Equipment.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case not delinquent.

ARTICLE 13. Railroad's Indemnities. The Railroad agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including reasonable counsel fees arising out of retention by the Vendor of a security interest in the Equipment, the use and operation thereof by the Railroad during the period when said security interest remains in the Vendor or the transfer of said security interest in the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except, however, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 14. Patent Indemnities; Builder's Warranty of Material and Workmanship. Except in cases of articles or materials specified by the Railroad and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by the Builder, the Builder agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad, its assigns or the users of the Equipment (i) because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right or (ii) arising out of any accident or tort during the construction, possession or storage by the Builder of any unit of Equipment resulting in damage to property or injury or death to any person. The Railroad likewise will indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Railroad and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Railroad and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Railroad every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Railroad and purchased or otherwise acquired by the Builder for use in or about the construction or operation of any of the Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Builder further agrees to execute and deliver to the Railroad or the users of the Equipment all and every such further assurance as may be reasonably requested by the Railroad more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Builder

will give notice to the Railroad of any claim known to the Builder from which liability may be charged against the Railroad hereunder, and the Railroad will give notice to the Builder of any claim known to the Railroad from which liability may be charged against the Builder hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

The Builder's warranty of material and workmanship is set forth in Item 2 of Schedule A hereto.

ARTICLE 15. Assignments. Except as otherwise permitted by Article 11 hereof, the Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Vendor, except that after prior notice to the Vendor the Railroad may lease any units of Equipment to any party, provided that any such lease is expressly subject and subordinate to the rights of the Vendor under this Agreement.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance with this Agreement or to respond to its warranties and indemnities contained or referred to in Article 14 hereof or Schedule A hereto, or relieve the Railroad of any of its obligations to the Builder under Articles 2, 3, 4, 5, 13 and 14 hereof and this Article 15 or of any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment by the Vendor either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by

the Railroad under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Railroad recognizes that it is the custom of railroad equipment manufacturers to assign conditional sale agreements and understands that the assignment of this Agreement, or of some of or all the rights of the Vendor hereunder is contemplated. The Railroad expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder and for the purposes of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of the Purchase Price or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Railroad against and only against the Builder.

The Railroad will (a) in connection with each settlement for the Equipment subsequent to such assignment, deliver to the assignee, at least five business days prior to the Closing Date for the Group fixed in the notice by the Railroad, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee, and (b) furnish to such assignee such number of counterparts of any other certificate or document required by the Vendor as may reasonably be requested.

If this Agreement shall not have been assigned by the Builder and payment shall not have been made with respect to units of Equipment or if the assignee shall not make payment to the Builder with respect to units of the Equipment as provided in the instrument making such assignment, the Builder will promptly notify the Railroad of such event and,

if such amount shall not have been previously paid by such assignee, the Railroad will, not later than 10 days after the date such payment was due, pay or cause to be paid to the Builder the aggregate unpaid Purchase Price of such units of the Equipment, together with interest from the day such payment was due to the date of payment by the Railroad at the highest prime rate of interest charged by any of the four New York City banks having the largest total assets in effect on the date such payment was due.

ARTICLE 16. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any indebtedness in respect of the Purchase Price of the Equipment or any other sum payable by the Railroad as provided in this Agreement within 15 days after payment thereof shall be due hereunder; or

(b) any certificate, financial statement or other instrument furnished by the Railroad or by any Guarantor (as defined in the Finance Agreement of even date herewith among the Railroad, Chemical Bank and the three Guarantors therein named) in connection with this Agreement or any agreement entered into concurrently herewith relating to the financing of the Equipment shall prove to have been false or misleading in any material respect; or

(c) any representation or warranty made by the Railroad or by any Guarantor in this Agreement or any agreement entered into concurrently herewith relating to the financing of the Equipment shall prove to have been false or misleading in any material respect when made; or

(d) the Railroad or any Guarantor shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment on its part to be kept or performed or to make provision satisfactory to the Vendor for such compliance; or

(e) default shall be made with respect to any indebtedness (other than the Conditional Sale Indebtedness) of the Railroad or any Guarantor when due after the expiration of the relevant period of grace, if any, or the performance of any other obligation incurred in connection with any indebtedness for borrowed money of the Railroad, if the effect of such default is to accelerate the maturity of such indebtedness or to permit the holder thereof to cause such indebtedness to become due after the expiration of the relevant period of grace, if any, prior to its stated maturity or any such indebtedness shall not be paid when due; or

(f) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Railroad and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been (and shall not continue to have been) duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(g) any other proceedings shall be commenced by or against the Railroad or any Guarantor for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been (and shall not continue to have been) duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or

receiver or receivers appointed (whether or not subject to ratification) for the Railroad or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(h) the Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment; or

(i) final judgments from which appeal is not taken for the payment of money in excess of \$25,000 in the aggregate shall be rendered against the Railroad or any subsidiary or any Guarantor, and the same shall remain undischarged for a period of 60 days during which execution shall not be effectively stayed;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a Declaration of Default) the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. The Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated. The Railroad shall promptly notify the Vendor of any event which has come to its attention which constitutes an event of default under this Agreement.

The Vendor may at its election waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Railroad in writing to that effect, and thereupon any respective rights

of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 17. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any part of the Equipment has been interchanged to return the Equipment so interchanged), cause (a) the Equipment to be moved to such point or points on its lines as shall be designated by the Vendor and shall there deliver the equipment or cause it to be delivered to the Vendor and (b) the Equipment to be moved to such interchange point or points of the Railroad as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor. At the option of the Vendor, the Vendor may keep the equipment on any of the lines or premises of the Railroad until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the

necessary facilities at any point or points selected by the Vendor reasonably convenient to the Railroad and, at the risk of the Railroad, to permit inspection of the Equipment by the Vendor, the representatives of the Vendor and prospective purchasers and users; provided, however, that the Railroad shall not be liable in connection with such inspection, except in the case of negligence of the Railroad or any of its employees or agents, for any injury to or death of any person exercising inspection rights under this paragraph. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the election by the Vendor to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Article 21 hereof, and to any other persons to whom the law may require notice. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the rights of the Railroad in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing and storing the Equipment and the reasonable attorneys' fees of the Vendor, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad and the

Vendor shall take all such action as is permitted in Article 6 hereof; provided, further, that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the election by the Vendor to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as herein-after provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the reasonable attorneys' fees of the Vendor, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad and the Vendor shall take all such action as is permitted in Article 6 hereof. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale

the property to be sold, and in general in such manner as the Vendor may determine. The Vendor or the Railroad may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 21 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the right of the Railroad to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable, except as required by law, to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of the sums due to the Vendor from the Railroad hereunder. From and after the date of any such sale, the Vendor shall be entitled to receive the per diem interchange for each unit of Equipment which shall not have been assembled, as hereinabove provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the rights of the Vendor or the obligations of the Railroad hereunder. The acceptance by the Vendor of any payment after it shall have become due hereunder shall not be

deemed to alter or affect the obligations of the Railroad or the rights of the Vendor hereunder with respect to any subsequent payments or default herein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Vendor upon demand, together with interest from the date of such demand to the date of payment by the Railroad at the rate per annum set forth in Article 4 hereof, applicable to amounts remaining unpaid after becoming due and payable. If the Railroad shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

The Railroad will pay all reasonable expenses, including reasonable attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 17 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 18. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable Federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Railroad, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of

any kind, notice of intention to take possession of or to sell or lease the Equipment, or any unit thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 19. Recording. The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement. The Railroad will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20. Payment of Expenses. The Railroad will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builder) incident to this Agreement and the first assignment of this Agreement, and any instrument supplemental or related hereto or thereto.

ARTICLE 21. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) to the Railroad, at 490 East Market Street, York, Pennsylvania 17403,

(b) to the Builder, at its address specified in Item 1 of Schedule A hereto, and

(c) to any assignee of the Vendor or of the Railroad, at such address as may have been furnished in writing to each of the other parties hereto by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 22. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Schedules hereto, exclusively states the rights of the Vendor and the Railroad with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment, except for the agreement relating to certain expenses contained in item 2 of the section headed "Miscellaneous" of Exhibit A-6 or letter dated September 15, 1978, from Chemical Bank to the Railroad. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Vendor and the Railroad.

ARTICLE 23. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by applicable Federal law and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 24. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by their officers, thereunto duly authorized, and their respective

corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

MARYLAND AND PENNSYLVANIA RAILROAD
COMPANY,

by Robert Grossman
Vice President

[Corporate Seal]

Attest:

Jeremy W. Morin
Assistant Secretary



WHITTAKER CORPORATION (BERWICK
FORGE & FABRICATING DIVISION),

by Peter C. Rayer
Authorized Signatory

[Corporate Seal]

Attest:

Charles F. Elmoo
Authorized Signatory

COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF YORK,)

On this 21st day of February 1979, before me personally appeared Robert Grossman to me personally known, who, being by me duly sworn, says that he is a Vice President of MARYLAND AND PENNSYLVANIA RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Edgar Houton
Notary Public

[Notarial Seal]

MY COMMISSION EXPIRES
JANUARY 31, 1981
YORK, YORK COUNTY, PA

My Commission expires

COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF COLUMBIA,)

On this 15th day of February 1979, before me personally appeared Peter C. Bayer, to me personally known, who, being by me duly sworn, says that he is an authorized signatory of WHITTAKER CORPORATION (BERWICK FORGE & FABRICATING DIVISION), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Lloyd H. Adams
Notary Public

[Notarial Seal]

LLOYD H. ADAMS, NOTARY PUBLIC
BERWICK BORO, COLUMBIA COUNTY
MY COMMISSION EXPIRES SEPT. 19, 1982
Member, Pennsylvania Association of Notaries

My Commission expires

SCHEDULE A

Item 1: Whittaker Corporation (Berwick Forge & Fabricating Division),
P. O. Box 188,
West Ninth Street,
Berwick, Pennsylvania 18603.

Item 2: The Builder warrants that the Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Article 2 of the Conditional Sale Agreement to which this Schedule is attached (hereinafter called the Agreement) and warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Railroad and not manufactured by the Builder) and workmanship and design (except as to designs specified by the Railroad and not developed by the Builder) under normal use and service, the obligation of the Builder under this Item 2 being limited to making good at its plant any part or parts of any unit of the Equipment which shall, within one year after the delivery of such unit of Equipment to the Railroad, be returned to the Builder with transportation charges prepaid and which examination by the Builder shall disclose to its satisfaction to have been thus defective.

The foregoing warranty is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and of all other obligations or liabilities on the part of the Builder, except for its obligations under Articles 2, 3, 4 and 14 of the Agreement, and the Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction of the Equipment and delivery of the Equipment, except as aforesaid.

The Builder further agrees with the Railroad that neither the inspection provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Railroad of any of its rights under this Item 2.

The warranties and indemnities contained or referred to in this Item 2 and in any Articles of the Agreement and all other covenants and obligations of the Builder contained herein or therein shall inure to the benefit of, and be enforceable by, any assignee or transferee of the Agreement or of the Equipment constructed by the Builder.

SCHEDULE B

<u>Type</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Road Numbers (Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
70-ton, 50' 6" Box Cars with rigid under- frame and 10' sliding doors	C-08-0316-1	Berwick, Pennsylvania	188	\$33,100	\$6,222,800	MPA 9400-9587	January and February 1979 at Berwick, Pennsylvania

CERTIFICATE OF ACCEPTANCE

TO: CHEMICAL BANK, as Vendor under Conditional Sale Agreement dated as of January 1, 1979 (the Vendor).

WHITTAKER CORPORATION (Berwick Forge & Fabricating Division)
(the Manufacturer).

I, a duly appointed and authorized representative of the Vendor and Maryland and Pennsylvania Railroad Company (the Vendee) under the Conditional Sale Agreement dated as of January 1, 1979, between the Manufacturer and the Vendee, do hereby certify that I have inspected, received, approved and accepted delivery under the said Conditional Sale Agreement of the following Units of Equipment:

TYPE OF EQUIPMENT: 70-ton, 50' 6" Box Cars
with rigid underframe
and 10' sliding doors.

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF UNITS:

MARKED AND NUMBERED:

I do further certify that the foregoing Units of Equipment are in good order and condition, and appear to conform to the specifications, requirements and standards applicable thereto, and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and to all standards recommended by the Association of American Railroads applicable to such Units of Equipment, that the Vendee has no knowledge of any defect in any of the foregoing Units of Equipment with respect to design, manufacture, condition or in any other respect, and that each Unit has been labeled by means of a plate or a stencil printed upon each side of the Unit in letters not less than one inch in height as follows:

"Ownership subject to a Security Agreement recorded with the Interstate Commerce Commission."

The execution of this Certificate will not in any way relieve or decrease the responsibility of the Manufacturer for any warranties it has made with respect to the Equipment.

On the date of the execution of this Certificate of Acceptance no Event of Default under said Conditional Sale Agreement, or event which with the passage of time or the giving of notice or both, has occurred and is continuing, and all of the representations and warranties given by the Vendee under or pursuant to said Conditional Sale Agreement and the Finance Agreement referred to therein are true and correct as of the date hereof.

Dated: , 1979.

Inspector and Authorized
Representative of the Vendee

CONDITIONAL SALE INDEBTEDNESS REPAYMENT SCHEDULE
FOR EACH \$1,000,000 OF CONDITIONAL SALE INDEBTEDNESS

INSTALMENT NUMBER	TOTAL PAYMENT	INTEREST PORTION	PRINCIPAL RECOVERY	ENDING PRINCIPAL
				\$ 1,000,000.00
1	\$ 36,443.52	\$ 25,625.00	\$ 10,818.52	989,181.48
2	36,443.52	25,347.78	11,095.74	978,085.73
3	36,443.52	25,063.45	11,380.07	966,705.66
4	36,443.52	24,771.83	11,671.69	955,033.98
5	36,443.52	24,472.75	11,970.77	943,063.20
6	36,443.52	24,165.99	12,277.53	930,785.67
7	36,443.52	23,851.38	12,592.14	918,193.53
8	36,443.52	23,528.71	12,914.81	905,278.72
9	36,443.52	23,197.77	13,245.75	892,032.97
10	36,443.52	22,858.34	13,585.18	878,447.79
11	36,443.52	22,510.22	13,933.30	864,514.49
12	36,443.52	22,153.18	14,290.34	850,224.15
13	36,443.52	21,786.99	14,656.53	835,567.62
14	36,443.52	21,411.42	15,032.10	820,535.52
15	36,443.52	21,026.22	15,417.30	805,118.22
16	36,443.52	20,631.15	15,812.37	789,305.85
17	36,443.52	20,225.96	16,217.56	773,088.29
18	36,443.52	19,810.39	16,633.13	756,455.16
19	36,443.52	19,384.16	17,059.36	739,395.80
20	36,443.52	18,947.02	17,496.50	721,899.30
21	36,443.52	18,498.67	17,944.85	703,954.45
22	36,443.52	18,038.83	18,404.69	685,549.76
23	36,443.52	17,567.21	18,876.31	666,673.45

SCHEDULE D

2.

INSTALMENT NUMBER	TOTAL PAYMENT	INTEREST PORTION	PRINCIPAL RECOVERY	ENDING PRINCIPAL
24	\$ 36,443.52	\$ 17,083.51	\$ 19,360.01	\$ 647,313.44
25	36,443.52	16,587.41	19,856.11	627,457.33
26	36,443.52	16,078.59	20,364.93	607,092.40
27	36,443.52	15,556.74	20,886.78	586,205.62
28	36,443.52	15,021.52	21,422.00	564,783.62
29	36,443.52	14,472.58	21,970.94	542,812.68
30	36,443.52	13,909.57	22,533.95	520,278.73
31	36,443.52	13,332.14	23,111.38	497,167.35
32	36,443.52	12,739.91	23,703.61	473,463.74
33	36,443.52	12,132.51	24,311.01	449,152.73
34	36,443.52	11,509.54	24,933.98	424,218.75
35	36,443.52	10,870.61	25,572.91	398,645.84
36	36,443.52	10,215.30	26,228.22	372,417.62
37	36,443.52	9,543.20	26,900.32	345,517.30
38	36,443.52	8,853.88	27,589.64	317,927.66
39	36,443.52	8,146.90	28,296.62	289,631.04
40	36,443.52	7,421.80	29,021.72	260,609.32
41	36,443.52	6,678.11	29,765.41	230,843.91
42	36,443.52	5,915.38	30,528.14	200,315.77
43	36,443.52	5,133.09	31,310.43	169,005.34
44	36,443.52	4,330.76	32,112.76	136,892.58
45	36,443.52	3,507.87	32,935.65	103,956.93
46	36,443.52	2,663.90	33,779.62	70,177.31
47	36,443.52	1,798.29	34,645.23	35,532.08
48	36,442.59	910.51	35,532.08	0.